IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO.1834 OF 2004

Sampat Ramu Patole ...Petitioner
vs.
State of Maharashtra ...Respondent

Ms Anamika Malhotra (Adv.appointed)
Ms M.M.Deshmukh,A.P.P. for State

CORAM: A.S.OKA,J.
DATE : AUGUST 24,2005

P.C.:

1. Heard Advocate for the Petitioner and the learned A.P.P. for State. The application made by the Petitioner for furlough leave has been rejected by the impugned order on the basis of adverse police report.

2. The adverse police report records that the surety offered by the Petitioner has not filed requisite documents. The second ground is that the parents of the Petitioner are not sick and the third ground is that there is enmity between the group led by the Petitioner and the group led by the complainant on the basis of whose complaint the Petitioner was prosecuted and convicted. Apprehension expressed in the report is that there is a threat to the life of the witnesses who have deposed against the Petitioner.

3. The police report does not disclose that the apprehension regarding threat to the life of the witnesses is based on any statements recorded by the police. It is not stated in the

report that the witnesses have stated that there is a threat to their life. Therefore, considering the facts of the case, mere allegation of enmity between the two groups and alleged threat to the life of the witnesses is no ground to reject the application for furlough leave. Whether the parents of the Petitioners are keeping good health or not is hardly relevant for considering the prayer for grant of furlough leave. If the surety offered by the Petitioner has not furnished necessary documents, furlough leave cannot be granted unless requisite documents are produced or the Petitioner offers a fresh surety.

4. Hence, the Petition is disposed of by passing the following order :

i) Impugned order dated 27th March 2004 is quashed and set aside. If the surety offered by the Petitioner furnishes requisite documents or if the Petitioner offers surety of some other person, the application dated 16th January 2004 for furlough leave shall be considered afresh without being influenced by the police report dated 25th February/4th March 2004.

ii) A copy of this order be forwarded to the Petitioner.

iii) Parties to act upon an authenticated copy of this order.

JUDGE